

MESSAGE FROM THE HOUSE

House Chamber
April 5, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT
THE HOUSE HAS PASSED THE FOLLOWING:

HB 952, A bill to be entitled An Act relating to the sale of certain wild
animals; providing a penalty.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

MEMORIAL RESOLUTION

S.R. 384 - By Snelson: Memorial resolution for Mrs. Ida Mae Williams.

ADJOURNMENT

On motion of Senator Parker the Senate at 12:19 o'clock p.m. adjourned
until 11:00 o'clock a.m. Monday, April 9, 1979.

FIFTIETH DAY

(Monday, April 9, 1979)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment, and was
called to order by the President.

The roll was called and the following Senators were present: Andujar,
Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabec, Harris,
Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy,
McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Schwartz,
Short, Snelson, Traeger, Truan, Vale, Williams.

Absent-excused: Santiesteban.

A quorum was announced present.

The Reverend Byron Wells, St. John's United Church of Christ, Pflugerville,
offered the invocation as follows:

Lord God, come into our midst and give support to these Senators who are
entrusted with the responsibility to govern the people. Give them courage to face
difficult decisions seeking justice and the welfare of the people. Guide these Your
servants that they may carry out their duties with wisdom and honesty.

In Christ's name we pray, Amen.

On motion of Senator Moore and by unanimous consent, the reading of the Journal of the proceedings of Thursday, April 5, 1979, was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Santiesteban was granted leave of absence for today on account of important business on motion of Senator Farabee.

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April 9, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

All necessary rules suspended, and the house concurred in senate amendments to **H.B. 796** by a vote of 128 ayes, 0 noes, 3 pnv.

H.B. 1418 Relating to the transportation of certain agricultural commodities in their natural state

HB 563, A bill to be entitled An Act relating to the creation of the Matagorda Island State Park.

HB 1286, A bill to be entitled An Act relating to employment in public schools after retirement from Teacher Retirement System.

HB 1731, A bill to be entitled An Act relating to the control, storage, preservation, diversion, use, sale, and distribution of water and the ownership of water and water rights by the Lower Colorado River Authority.

HB 1917, A bill to be entitled An Act relating to probate court authorization of donation of a kidney to prescribed persons by a mentally retarded person; and providing for hearing procedures and standards for said authorization.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILLS AND RESOLUTION ON FIRST READING

On motion of Senator Mauzy and by unanimous consent, the following bills and resolution were introduced, read first time and referred to the Committee indicated:

S.B. 1230 by Mauzy Intergovernmental Relations
 Relating to the inclusion of judges of statutory county courts in the state judicial retirement system and credit for prior service as a judge of these courts; amending Chapter 99, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 6228b, Vernon's Texas Civil Statutes), by amending Sections 1 and 6A and adding Sections 2D and 5B.

S.B. 1231 by Longoria Jurisprudence
 Relating to the composition of Administrative Judicial Districts.

S.B. 1232 by Schwartz Intergovernmental Relations
 Relating to validation of the incorporation, boundaries, and governmental acts and proceedings of certain municipalities.

S.B. 1233 by Farabee Jurisprudence
 Relating to the giving of notice in the investigation of fraudulent workers' compensation claim practices; providing investigatory and enforcement powers and procedures; providing penalties; amending Section 9a, Article 8307, Revised Civil Statutes of Texas, 1925; and declaring an emergency.

S.B. 1234 by Moore State Affairs
 Relating to noxious weed control districts.

S.B. 1235 by Truan Education
 Relating to establishment of a state veterans' cemetery.

S.B. 1236 by Truan Education
 Relating to nonvoting student members of the boards of trustees of certain independent school districts.

S.B. 1237 by Price Intergovernmental Relations
 Relating to the creation, establishment, administration, maintenance, operation, and financing of Hemphill County Hospital District.

S.J.R. 59 by Mauzy Intergovernmental Relations
 Proposing an amendment to Article V of the Texas Constitution by adding Section 1-c to authorize the Legislature to provide for retirement and compensation paid by the state for judges of statutory county courts and for automatic retirement at a certain age.

HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read the first time and referred to the Committee indicated:

H.B. 884, To Committee on Human Resources.
H.B. 952, To Committee on Natural Resources.
H.C.R. 148, To Committee on Administration.

REPORT OF STANDING COMMITTEE

Senator Creighton submitted the following report for the Committee on Economic Development:

H.B. 1184
H.B. 926
H.B. 638 (Amended)

S.B. 919 (Amended)
S.B. 817 (Amended)
S.B. 747 (Amended)
S.B. 620
C.S.S.B. 951 (Read first time)
C.S.S.B. 370 (Read first time)

MESSAGE FROM GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

Austin, Texas
April 9, 1979

TO THE SENATE OF THE SIXTY-SIXTH LEGISLATURE; REGULAR SESSION:

Pursuant to the provisions of Section 5, Article III of the Constitution of Texas, I herewith submit as an emergency matter for your consideration the following:

- 1). A measure relating to the authority of the Governor to transfer programs of certain offices and agencies to other agencies.
- 2). A measure relating to the Governor's authority to designate the chairmen of state boards and commissions.
- 3). An emergency appropriation to the Treasury Department of Texas for installation of a fire protection system to protect about \$12 billion in securities and safekeeping receipts inside the main vault of the Treasury Department for general revenue not to exceed \$25,000.
- 4). House Joint Resolution 3, a proposed constitutional amendment to provide for legislative review of the process of rulemaking by agencies in the executive department and House Bill 594 which is the enabling legislation for this resolution.

Respectfully submitted,

/s/W. P. Clements, Jr.
Governor of Texas

SENATE RESOLUTION 385

Senator McKnight offered the following resolution:

WHEREAS, Some members of the Texas Senate are long-winded and expert in floor debate; others find their calling in the art of one-on-one persuasion; some fire off words like machine gun rounds; and some hardly talk at all; and

WHEREAS, The man we wish to honor today, William Tyler Moore of Bryan, in contrast to most attorneys, shares no great love for the sound of his own voice; he has developed a rather singular style in his career for which the method of measuring one's skill lies in the use of words; his legislation has been compared to the frequency and effect of a cannon blast; he doesn't take up the cause of every man who crosses his doorstep but when he does, he devotes himself to it; and

WHEREAS, William Tyler Moore took a bachelor of science degree from Texas A&M University and a law degree from The University of Texas; and

WHEREAS, His charming and devoted wife, Babe, has given the Senator many wonderful years filled with love and provided him a home that is a haven from the tension and conflict of his life in public service; and

WHEREAS, Bill Moore served in the United States Air Force in 1943, gaining early fame for night flights over Fairbanks, Alaska, seeing action in both the Atlantic and Pacific Theaters of War, receiving an honorable discharge as sergeant in 1946; and

WHEREAS, The same year that he served as a member of the Texas House of Representatives, his only child, William Tyler Moore, Jr. was born; two years later, in 1949, Bill Moore was elected State Senator of District 5 and has since served over half of his life commanding that office; and

WHEREAS, William Tyler Moore has continuously served as a member of both the Finance and State Affairs Committees since the 54th Legislature and this year marks the sixth consecutive session he will chair the State Affairs Committee; he is also a member of the Senate Committee on Economic Development, the Legislative Budget Board, and the Legislative Audit Committee; and

WHEREAS, He has been the recipient of awards and honors by various organizations within and outside of government, among them, the Texas A&M University Distinguished Alumnus Award; the Knapp-Porter Award by Texas Agricultural Extension Service of Texas A&M University; the Mr. Chairman Award, Texas Association of Insurance Agents; the Order of the Golden Pine Cone presented by the Texas Forestry Association; Conservation Award of the Mineral Resources Committee of Texas; Distinguished Public Servant Award, Sportsmen's Clubs of Texas; and the list of achievements goes on; and

WHEREAS, Few men have any longlasting desire for a life of public service, and of those, few men have the stamina to campaign year after year, and of those, few men have the ability and the good fortune to win year after year, and of those, few men live long enough to rank number one in seniority among his colleagues in the Texas Senate, as does William Tyler Moore, better known to friends and opponents alike as the "Bull of the Brazos"; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 66th Legislature, hereby extend birthday greetings to Senator Moore on the occasion of his 62nd birthday on April 9, 1979, with the sincere wish for a warm and joy-filled celebration and the hope of many more such days to come.

The resolution was read.

On motion of Senator Short and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator McKnight and by unanimous consent, the resolution was considered immediately and was adopted.

COMMITTEE SUBSTITUTE SENATE BILL 359 ON SECOND READING

The President laid before the Senate on its second reading and passage to engrossment (The bill having been read second time on Thursday, April 5, 1979, with an amendment by Senator Creighton pending):

C.S.S.B. 359, Relating to the definition of credit terms; amending subdivision (h), Article 7.01, Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-7.01, Vernon's Texas Civil Statutes).

Question - Shall the amendment be adopted?

Senator Doggett offered the following substitute for the pending amendment:

Amend Floor Amendment No. 1 to **C.S.S.B. 359** by deleting "\$35" in the last line and substituting therefor "sixty-five cents (\$.65)."

The substitute for the pending amendment was read.

(Senator Parker in Chair)

Pending discussion of the substitute for the amendment, Senator Howard occupied the Chair.

On motion of Senator Doggett and by unanimous consent, the substitute for the pending amendment was withdrawn.

Senator Schwartz offered the following amendment to the pending amendment:

Amend Floor Amendment No. 1 to **C.S.S.B. 359** by deleting "\$35" in the last line and substituting therefor "\$5.00"

The amendment to the pending amendment was read.

Question - Shall the amendment to the pending amendment be adopted?

(President in Chair)

BILLS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills:

S.B. 356
S.B. 348
S.B. 978
S.B. 918 (Signed subject to Sec. 49a,
Article III, Constitution of
State of Texas)
S.B. 584
S.B. 556
S.B. 418
S.B. 452
S.B. 166
S.B. 63
H.C.R. 149
H.B. 796

**COMMITTEE SUBSTITUTE SENATE BILL 359
ON SECOND READING**

The Senate resumed consideration of **C.S.S.B. 359** on its second reading and passage to engrossment with an amendment by Senator Schwartz to a pending amendment by Senator Creighton.

Question - Shall the amendment to the pending amendment be adopted?

(Senator Farabee in Chair)

Pending discussion of the amendment to the amendment, Senator Blake occupied the Chair.

(Senator Andujar in Chair)

Pending discussion of the amendment to the amendment, the President occupied the Chair.

(Senator Harris in Chair)

Pending discussion of the amendment to the amendment, the President occupied the Chair.

(Senator Patman in Chair)

On motion of Senator Schwartz and by unanimous consent, the amendment to the pending amendment was withdrawn.

Question - Shall the amendment be adopted?

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HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

HB 43, A bill to be entitled An Act relating to sexual contact with the breast of a female; amending Section 21.01(2) and Section 43.01(3), Penal Code.

HB 1088, A bill to be entitled An Act relating to payments in lieu of taxes by municipally owned utilities.

S.B. 466 Making an appropriation to the University of Houston.

HB 1811, A bill to be entitled An Act relating to the pay of grand and petit jurors.

RESPECTFULLY,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 976 REREFERRED

On motion of Senator Howard and by unanimous consent, **H.B. 976** was withdrawn from the Committee on Natural Resources and rereferred to the Committee on Intergovernmental Relations.

SENATE RULE 103 SUSPENDED

On motion of Senator Howard and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Intergovernmental Relations might consider **H.B. 976** at 3:00 o'clock p.m. tomorrow.

COMMITTEE SUBSTITUTE SENATE BILL 359 ON SECOND READING

The Senate resumed consideration of **C.S.S.B. 359** on its second reading and passage to engrossment with an amendment by Senator Creighton pending.

Question - Shall the pending amendment be adopted?

Senator Doggett offered the following substitute for the pending amendment:

Amend Floor Amendment No. 1 to **C.S.S.B. 359** by deleting "\$35" in the last line and substituting therefor "sixty-five cents (\$.65)."

The substitute for the pending amendment was read.

Question - Shall the substitute for the pending amendment be adopted?

(President in Chair)

MESSAGE FROM THE HOUSE

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April 9, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

HB 1135, A bill to be entitled An Act relating to the presence of the defendant in criminal prosecutions; amending Article 33.03, Code of Criminal Procedure, 1965, as amended; and declaring an emergency.

HB 1436, A bill to be entitled An Act relating to the selection of grand jurors.

HB 1381, A bill to be entitled An Act relating to fees for testing instruments used in weighing and measuring.

HB 244, A bill to be entitled An Act relating to the obligations and liability of parents and others for the conduct of certain children and the authority of juvenile courts to make orders for the payment of certain fees and for the welfare of children.

HB 1494, A bill to be entitled An Act relating to the definition of gas utility, public utility, and utility for certain purposes.

HB 12, A bill to be entitled An Act relating to a standard for determining death.

HB 671, A bill to be entitled An Act amending the Penal Code (Acts 1973, 63rd Legislature, Regular Session, Chapter 399), as amended, by adding a new Section 12.46, providing for use of prior convictions for enhancement purposes, and declaring an emergency.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORT OF STANDING COMMITTEE

By unanimous consent, Senator Jones of Harris submitted the following report for the Committee on Administration:

H.C.R. 59

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on State Affairs, Subcommittee on Nominations:

Austin, Texas
April 9, 1979

TO THE SENATE OF THE SIXTY-SIXTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE A MEMBER OF THE BOARD OF REGENTS OF EAST TEXAS STATE UNIVERSITY:

For a six-year term to expire February 15, 1985:

MR. JERAL JO CROWDER of Houston, Harris County, is replacing Mr. G. C. Morris of Austin, Travis County, whose term expired.

TO BE A MEMBER OF THE TEXAS CLOSEUP BOARD:

For a six-year term to expire January 31, 1985:

MR. FRANK A. DRISKILL of Wake Village, Bowie County, is replacing Mr. Ellsworth R. Drummer, Sr. of San Antonio, Bexar County, whose term expired.

For a six-year term to expire January 31, 1985:

MR. LLOYD PIERSON of Houston, Harris County, is replacing Mr. Milton Stanley of Houston, Harris County, whose term expired.

TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TEXAS TURNPIKE AUTHORITY:

For a six-year term to expire February 15, 1985:

MR. WALTER MISCHER, JR. of Houston, Harris County, is being reappointed.

MR. CLIVE RUNNELLS of Houston, Harris County, is replacing Mr. Richard J. Lindley of Houston, Harris County, whose term expired.

MR. RAY RODRIGUEZ of Houston, Harris County, is replacing Mr. Durwood A. Sutton of Grand Prairie, Dallas County, whose term expired.

TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TRINITY RIVER AUTHORITY OF TEXAS:

For a six-year term to expire March 15, 1985:

MR. BERLIN MICHAEL CUMMINGS of Fort Worth, Tarrant County, is replacing Mr. Frank Barron of Fort Worth, Tarrant County, whose term expired.

Respectfully submitted,

/s/ W. P. Clements, Jr.
Governor of Texas

SENATOR ANNOUNCED PRESENT

Senator Santiesteban who had previously been recorded as "Absent-Excused" was announced "Present".

**COMMITTEE SUBSTITUTE SENATE BILL 359
ON SECOND READING**

The Senate resumed consideration of **C.S.S.B. 359** on its second reading and passage to engrossment with a substitute amendment by Senator Doggett to the pending amendment by Senator Creighton.

Question - Shall the substitute for the pending amendment be adopted?

(Senator Howard in Chair)

On motion of Senator Doggett and by unanimous consent, the substitute for the pending amendment was withdrawn.

(President in Chair)

Senator Schwartz offered the following amendment to the pending amendment:

Amend Floor Amendment No. 1 to **C.S.S.B. 359** by deleting "\$35" in the last line and substituting therefor: \$2.00.

The amendment to the pending amendment was read and failed of adoption by the following vote: Yeas 6, Nays 19.

Yeas: Clower, Doggett, Mauzy, Patman, Schwartz, Truan.

Nays: Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Kothmann, Longoria, Meier, Mengden, Ogg, Price, Short, Snelson, Traeger, Vale, Williams.

Absent: Andujar, Jones of Taylor, McKnight, Moore, Parker, Santiesteban.

Senator Clower offered the following amendment to the pending amendment:

Amend Floor Amendment 1 to **S.B. 359** Section (1) thereof by substituting the following language after the words "and the closing of the" as follows:

...retail installment transaction provided such documentary fee is charged to both cash and credit buyers alike and does not exceed \$15.00, unless a higher fee is specifically authorized by the Consumer Credit Commissioner.

and by further amending Section (1) by adding after the words "in money or goods or both" the following language:

The amount of the documentary fee charged by new and used automobile, truck, and mobile home dealers may exceed \$15.00 upon application to the Consumer Credit Commissioner, and upon determination by the Commissioner, in accordance with Article 6252-13a, that the facts presented with the application warrant an amount higher than \$15.00.

The amendment to the pending amendment was read and failed of adoption by the following vote: Yeas 11, Nays 17.

Yeas: Clower, Doggett, Farabee, Howard, Jones of Harris, Kothmann, Mauzy, Patman, Schwartz, Truan, Vale.

Nays: Andujar, Blake, Braecklein, Brooks, Creighton, Harris, Jones of Taylor, Longoria, Meier, Mengden, Moore, Ogg, Price, Short, Snelson, Traeger, Williams.

Absent: McKnight, Parker, Santiesteban.

The pending amendment by Senator Creighton was adopted by the following vote: Yeas 18, Nays 10.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, Longoria, Meier, Mengden, Moore, Ogg, Price, Snelson, Traeger, Williams.

Nays: Clower, Doggett, Jones of Harris, Kothmann, Mauzy, Patman, Schwartz, Short, Truan, Vale.

Absent: McKnight, Parker, Santiesteban.

Senator Clower offered the following amendment to the bill:

S.B. 359 is amended by amending the caption and adding a new Section 2.

The caption is amended as follows: "Relating to documentary fees and required notice thereof for service rendered to retail buyers of motor vehicles."

A new Section 2 is added and the former section 2 and all subsequent sections are renumbered to reflect the addition. Section 2 of **S.B. 359**, as amended, is as follows:

SECTION 2.

Article 4413 (36) V.A.C.S., Section 5.01 is amended with a new sub-section (6) under the list of acts prohibited by motor vehicle dealers as follows:

(6.) Charge a documentary fee for services rendered in the handling of license plates or title without printing the following notice in boldface conspicuously segregated from the body of the document on any contract, invoice, or other instrument in which the customer agrees to pay a documentary fee:

"NOTICE TO BUYER

A DOCUMENTARY FEE IS NOT AN OFFICIAL OR GOVERNMENT FEE; THE DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO CUSTOMERS IN RELATION TO THE DEALER'S COST OF HANDLING PAPERWORK. YOU ARE NOT REQUIRED TO PAY A DOCUMENTARY FEE, AND MAY AVOID THE COST OF THAT FEE BY TAKING THE TITLE AND LICENSE PAPERS TO THE COUNTY TAX ASSESSOR COLLECTOR'S OFFICE YOURSELF. FURTHERMORE, YOU MAY SHOP FOR LOWER DOCUMENTARY FEES AMONG AUTO DEALERSHIPS. SOME BUSINESSES MAY EXIST IN YOUR TOWN OR CITY THAT WILL HANDLE TITLE PAPERWORK AT LESS COST THAN THIS AUTO DEALER. THIS NOTICE IS REQUIRED BY STATE LAW."

In addition to all sanctions enforced by the Commission for violation of this Code, a violation of this sub-section shall make the dealer liable to the customer for three times the cost of the documentary fee and reasonable attorney fees.

The amendment was read and was adopted.

On motion of Senator Creighton and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by the following vote: Yeas 18, Nays 10.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Harris, Howard, Jones of Harris, Jones of Taylor, Longoria, Meier, Mengden, Moore, Ogg, Price, Snelson, Traeger, Williams.

Nays: Clower, Doggett, Farabee, Kothmann, Mauzy, Patman, Schwartz, Short, Truan, Vale.

Absent: McKnight, Parker, Santiesteban.

MEMORIAL RESOLUTIONS

S.R. 392 - By Doggett: Memorial resolution for John Riley Potts.

S.R. 393 - By Schwartz: Memorial resolution for Mrs. Betty Goldstein Manaster.

CONGRATULATORY RESOLUTIONS

S.R. 386 - By Clower: Extending congratulations to Mark Boyden.

S.R. 387 - By Clower: Extending congratulations to Robert Wheat.

S.R. 388 - By Clower: Extending congratulations to Polly Utz.

S.R. 389 - By Clower: Extending congratulations to Karen and William G. Poole, Jr.

S.R. 390 - By Clower: Extending congratulations to Mary and Jere N. Nichols.

S.R. 391 - By Clower: Extending congratulations to Deborah and Michael Mullinax.

S.R. 394 - By Schwartz: Extending congratulations to Marie Freeman.

S.R. 395 - By Schwartz: Extending congratulations to Lula Haller Felder.

S.R. 396 - By Schwartz: Extending congratulations to Brenda McClain.

S.R. 397 - By Schwartz: Extending congratulations to the sponsors of the Martin Luther King, Jr., Memorial Service, Galveston.

ADJOURNMENT

On motion of Senator Moore the Senate at 8:35 o'clock p.m. adjourned until 10:30 o'clock a.m. tomorrow.